

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
) Civil No : 03-221 ERIE
v.)
)
CAROL S. MCGARREY,)
)
Defendant.)
)

MOTION FOR DEFAULT AND DEFAULT JUDGMENT

AND NOW, comes the Plaintiff, the United States of America, acting through the United States Department of Agriculture, Rural Housing Service, by its attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania and the Bernstein Law Firm, P. C. and pursuant to Rules 55(a) and 55(b)(2) of the Federal Rules of Civil Procedure, respectfully moves the Court to enter Default and Judgment by Default in favor of Plaintiff, the United States of America, and against Defendants, Carol S. McGarrey. In further support of Its Motion, the United States respectfully avers as follows:

1. On July 9, 2003, Plaintiff, the United States of America, filed a Complaint in Mortgage Foreclosure against the Defendant, Carol S. McGarrey.
2. On July 14, 2003, Defendant, Carol S. McGarrey, was mailed a copy of the Complaint and Notices of Lawsuit and Request for Waivers of Service of Summons.
3. Defendant failed to return the Waiver of Service of Summons.
4. Because Defendant, Carol S. McGarrey did not execute the Waivers of Service of Summons, Plaintiff attempted to serve Defendant with the Complaint in Mortgage Foreclosure through the United States Marshal's Office on August 18, 2003.

5. The United States Marshal's Office returned and unexecuted return of service for Defendant, Carol S. McGarrey.

6. On May 16, 2005, Plaintiff filed a Motion for Alternate Service as to Defendant, Carol S. McGarrey.

7. On May 18, 2005 an order was issued granting Plaintiffs Motion for Special Service.

8. Plaintiff attempted service through The United States Marshal's Office by posting the Defendant's property, pursuant to the aforesaid Order of Court, on May 23, 2005

9. The United States Marshal's Office returned an executed return of service for Defendant, Carol S. McGarrey on June 23, 2005.

10. Defendant, Carol S. McGarrey, has not answered or asserted any defense in this action as provided by the Federal Rules of Civil Procedure.

11. To the best of Plaintiff's knowledge, information and belief, Defendant, Carol S. McGarrey, is not an infant or incompetent person and is not in the military service of the United States of America.

12. The amounts due Plaintiff from Defendant on the Note and Mortgage are as follows:

Principal and Advances	\$ 83,919.73
Interest to 12/31/02	\$ 3,821.29
Interest from January 1, 2003 through August 8, 2005 At the daily rate of \$16.96	\$ 16,128.96
Interest subject to recapture	\$ 6,393.40
TOTAL	\$110,263.38

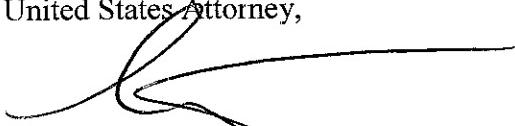
plus interest accruing from the date of Judgment at the annual rate of 7.375%.

WHEREFORE, Plaintiff, the United States of America, respectfully request the Court:

- a. Grant Plaintiff's Motion and, accordingly, enter Default and Judgment against Defendants;
- b. That the Plaintiff be paid the amount adjudged to be due and owing Plaintiff, with Interest thereon to the time of such payment, together with costs and expenses incurred by this action and by any sale of the subject property;
- c. Expose the subject property to sale for the purpose of satisfying Plaintiffs' Judgment; and
- e. Grant Plaintiff such other and further relief as the Court deems just and proper.

Respectfully submitted,

MARY BETH BUCHANAN
United States Attorney,



LORI A GIBSON, ESQUIRE
PA I.D. No.: #68013
Bernstein Law Firm, P.C.
Suite 2200 Gulf Tower
Pittsburgh, PA 15219

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil No.:03-221-ERIE
v.)	
)	
CAROL S. MCGARREY)	
)	
Defendant)	

JUDGMENT

AND NOW, to wit, this _____ day of _____, 2005, after presentation and consideration of the foregoing Motion for Default and Default Judgment, heretofore filed by the Plaintiff, the United States of America, it is hereby ORDERED that said Motion is GRANTED.

IT IS FURTHER ORDERED that Default is hereby entered against Defendant, Carol S. McGarrey, for failure of answer and Judgment by Default is hereby entered against said Defendant and in favor of Plaintiff, the United States of America, as follows:

Principal and Advances	\$ 83,919.73
Interest to 12/31/02	\$ 3,821.29
Interest from January 1, 2003 through August 8, 2005	
At the daily rate of \$16.96	\$ 16,128.96
Interest subject to recapture	\$ 6,393.40
TOTAL	\$110,263.38
plus interest accruing from the date of Judgment at the annual rate of 7.375%.	

It is further ORDERED that the subject property hereby shall be and is exposed for the purpose of satisfying Plaintiffs' Judgment.

It is further ORDERED that Plaintiff shall be paid the amount adjudged due Plaintiff with interest thereon to the time of such payment, together with costs of this action and the expenses of sale.

United States District Court Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
) Civil No.: 03-221E
v.)
)
CAROL S. MCGARREY,)
)
Defendant.)

AFFIDAVIT

I, Lori A. Gibson, attorney for the Plaintiff, deposes and says that the averments contained in the foregoing Motion for Default and Default Judgment are true and correct to the best of my knowledge, information and belief.



Lori A. Gibson, Esquire
Attorney for the United States of America

I hereby declare, under penalty of perjury, that the facts of the foregoing are true and correct to the best of my knowledge, information and belief

Executed on the 16 day of August 2005



Lori A. Gibson, Esquire
Attorney for the United States of America

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)
Defendant.)
)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion for Default and Default Judgment was served on the following individual on the 16 day of August 2005,
by U.S. First-Class Mail.

CAROL S. MCGARREY
10265 ROSE STREET
LAKE CITY, PA 16423


LORI A. GIBSON, ESQUIRE
PA ID NO: #90512